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IN THE HIGH COURT OF CHHATTISGARH JUDICATURE AT BILASPUR

CRIMINAL REVISION NO. 115 / 2006

Applicant (In Jail) 830/06	:	Kamal Kishore Agrawal S/o Late Kedarnath Agrawal Aged about 27 years, Occupation – Cycle Shop, R/o Sitapur, P.S.Sitapur, Dist : Sarguja-(C.G.)

Filed on 17/2/06
by Shri S.Uraon Advocate
27/2/06
R & D.R. (J)

Versus

Non-Applicant	:	State of Chhattisgarh Through – P.S.Sitapur, Dist : Sarguja-(C.G.)

CRIMINAL REVISION U/S 397 R/W SECTION 401 OF THE CODE OF CRIMINAL PROCEDURE

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक Cr. Rev. No. 115 सन् 2006

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	07.03.2006 **Shri P. Diwakar, Sr. Advocate with Shri Shrawan Agrawal, Counsel for the applicant-Kamal Kishore Agrawal.** **Shri Ashish Shukla, G.A. for the State.** **This matter is heard finally at the stage of admission.** **The applicant herein was convicted under Section 456 and 354 I.P.C. in Criminal Case No.92/2001 vide judgment dated 22.10.2005 delivered by Shri U.S.Mishra, Judicial Magistrate First Class and was sentenced to undergo R.I. for 6 months under Section 354 I.P.C. and to undergo R.I. for 6 months and a fine of Rs.500/- under Section 456 I.P.C.** **In Criminal Appeal No.241/2005, the Sessions Judge, Surguja vide judgment dated 14.2.2006 while maintaining the conviction under Section 354 I.P.C. altered the conviction under Section 456 I.P.C. to 451 I.P.C. but maintained the sentence awarded by the trial Court on each count.** **Briefly stated the prosecution story that five days prior to 8.2.2001, the applicant came to the house of the prosecutrix and made some very indecent gestures to outrage her modesty. On 8.2.2001 at about 6.30 P.M. when the prosecutrix was alone, the applicant again went to her house and after making some very indecent gestures to outrage her modesty caught hold of her hand and dragged her inside the house. Report of the incident was**	

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

lodged on 8.2.2001 at about 7.00 P.M. Both the Courts below have found that the testimony of the prosecutrix P.W.1, her husband Mahesh Prasad Gupta P.W.2 and Ganesh Kumar Gupta P.W.5 was reliable.

Shri P.Diwakar, learned Sr. Advocate for the applicant has drawn my attention towards few contradictions appearing in the testimony of the prosecutrix and has contended that the applicant has been falsely implicated. In the alternative, he has also argued that the applicant having undergone sentence of few weeks, the sentence awarded should be reduced to sentence already undergone by the applicant. On the other hand, Shri Ashish Shukla, G.A. while arguing in support of the impugned judgment opposed the prayer.

Having considered the rival submissions, I have gone through the record of criminal case No.241/2005. The testimony of the prosecutrix so far as the alleged house trespass by the applicant or the indecent gestures and assault on the prosecutrix to outrage her modesty is concerned is wholly unrebutted in cross-examination. Her testimony is also corroborated by Mahesh Prasad Gupta P.W.2 and Ganesh Kumar Gupta P.W.5 in material particulars as also by F.I.R. Ex.P.1. I am of the considered opinion that no such illegality or manifest error of law has been pointed out as would justify any interference in exercise of revisional jurisdiction in the

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conviction of the appellant under Section 451 and 354 I.P.C. by the first appellate Court. Considering the manner in which the applicant repeatedly went to the house of the prosecutrix after making some very indecent gestures to outrage her modesty, and assaulted her with that purpose, the prayer for reduction of sentence also cannot be accepted.

This revision is thus devoid of merit and is dismissed at the stage of admission.

Sd-/
Dilip Raosaheb Deshmukh
Judge

Angani

14-3-06

[पीछे देखिये